

REMARKS

Favorable reconsideration of this application is respectfully requested in light of the following remarks, wherein Claims 1-11 have been withdrawn and Claim 12 has been amended. Currently, Claims 12-21 are pending in the application.

As an initial matter, Claims 12-21 stand rejected under 35 U.S.C. 112, second paragraph, as allegedly being indefinite. As a result, independent Claim 12 has been amended to remove this informality. Accordingly, withdrawal of the rejection based upon 35 U.S.C. 112, second paragraph, is respectfully requested.

Claims 12-21 stand rejected under 35 U.S.C. 102(b) as anticipated by U.S. Patent No. 6,157,889 to *Baker* and U.S. Patent No. 3,964,620 to *Parsons*.

A disclosed, non-limiting embodiment of the present invention pertains to an apparatus for loading a dumper with material automatically. A controller guides the dumper at least during loading. Means controlled by the controller stop the dumper in the loading area in a predefined position so that material transported by the loader can be emptied on the dump box in a first area along a length of the dumper and move the at least one of the dumper and the loader so that the loader can empty material onto another area of the dump box.. The controller includes means for automatically guiding the loader in the emptying area to a suitable emptying point for loading and for automatically guiding the movement of the dumper in its loading area. These features are defined in independent Claim 12. None of the art of record disclose these patentable features.

Baker discloses a load distribution system for haulage trucks. Weight sensors are coupled to the bed of the truck 20 to measure the center of gravity. Based upon this information, the loader is automatically moved in various positions to effect even loading. However, the dumper remains stationary during the process.

In contrast, the present invention recites a controller for guiding the dump truck at least during loading. In addition, the present invention recites that the controller automatically moves both the loader and the dumper, not just the loader as described in *Baker*. Accordingly, *Baker* fails to disclose the patentable features of independent Claim 12.

Parsons discloses a vehicle loading apparatus and method wherein a driver operated truck is to be loaded with flowable solids from an elevated bin or hopper 16. The truck has a load-receiving body 18. The apparatus includes first and second sensing means 20 and 25. When the first sensing means 20 is actuated, a driver of the truck is signaled to stop the vehicle at the appropriate point to receive the first increment of the load. The driver continues to advance the vehicle until the second sensor 25 is actuated, at which point the driver is instructed to stop the vehicle to receive a second increment of the load. However, at all times, the loader or hopper 16 remains stationary.

In contrast, independent Claim 12 recites that the controller controls the dumper during loading, not the actual driver as in *Parsons*. In addition, *Parsons* fails to disclose that the controller automatically guides both the dumper and loader. Not only is the dumper not automatically guided, the loader or hopper 16 remains completely stationary. Accordingly, *Parsons* fails to disclose the patentable features of independent Claim 12.

For at least the foregoing reasons, it is submitted that the apparatus of Claim 12, and the claims depending therefrom, are patentably distinguishable over the applied documents. Accordingly, withdrawal of the rejections of record and allowance of this application are earnestly solicited.

Should any questions arise in connection with this application, or should the Examiner believe a telephone conference would be helpful in resolving any remaining issues

pertaining to this application, it is respectfully requested that the undersigned be contacted at the number indicated below.

EXCEPT for issue fees payable under 37 C.F.R. § 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. §§ 1.16 and 1.17 which may be required, including any required extension of time fees, or credit any overpayment to Deposit Account 50-0573. This paragraph is intended to be a CONSTRUCTIVE PETITION FOR EXTENSION OF TIME in accordance with 37 C.F.R. § 1.136(a)(3).

Respectfully Submitted,

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